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EXAMINER

MCALLISTER, STEVEN B

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

It is noted that in order to read the claims consistently with 35 USC 101, the “system” claims are interpreted as apparatus claims.

It is also noted that in interpreting the claims as apparatus claims, the “for” statements (“for receiving a desired service ...”, “for providing various customer services...”, etc.) relating to the apparatus elements are interpreted as intended use of the recited element only. For instance, claim 13, lines 5-8 recite:

“a home information communication terminal unit connected to an indoor communication network which is laid in each contracted dwelling house, *for receiving a desired service from said service provider by executing a service application program prepared in advance*”.

The limitation does not recite that the claimed element actually performs the “receiving a desired service..”, but that performing that task is the intended use of the element. As such, any reference showing an element capable of performing that task shows the claimed element. It is not necessary to show that the element in the reference actually does perform the task.

It is further noted that the “receiving” task would be positively recited were the claim amended to read (for example) “a home information communication terminal unit connected to an indoor communication network which is laid in each contracted dwelling house, *the home information communication terminal unit receiving a desired service*”.

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*from said service provider by executing a service application program prepared in advance”.*

In such a case, any reference showing that element would have to show the element actually performing the task.

However, in order to promote compact prosecution the claims are also treated as if the recitations were limiting in the 103 rejections.

### ***Claim Objections***

The claims appear to be a literal translation into English from a foreign document and contain some idiomatic errors. Correction is requested in order to clarify the claim text and speed prosecution.

For instance claim 13 contains the following which do not appear to be standard idiomatic English in their context: “dwelling house” (line 2, etc.), the server “watching” (line 15), determining whether the service is “normally offered to said contracted dwelling house” (line 19)(as understood by the examiner, the supervisory server monitors the network and determines whether the communication flow regarding the offered service between the terminal and communication server is normal, not whether the service is normally offered).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 is indefinite because it is not clear whether "which is provided from said supervisory server side" refers back to "said communication device" or "said home information communication terminal unit" (lines 22-24).

Claim 13 is indefinite because it is not clear how the service communication server can impose a fee on itself. (lines 34-37).

Claim 13 is indefinite because line 37 recites "said services communication server", antecedent basis for such a server does not appear to exist. In examining the claim, it was assumed to read "said service communication server".

Claim 13 and 14 are unclear because "movement of a living facility" is unclear. It is not clear whether movement of a living thing is being monitored, or movement in a dwelling is being monitored. Claim 13 is unclear because "watch the operation watch the movement of a living facility" is unclear.

Claim 15 is unclear because "information data" appears to be redundant.

The examiner gratefully acknowledges applicant's explanation of the intended meaning of the phrases in his response, but notes that the text of the claim has not been amended to provide clarification and it therefore still indefinite.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 13 recites that "said service communication server imposes [a] service charge for said customer services through said home information communication terminal unit on each contracted dwelling house and imposes [an] authorization fee and [an] access fee for said services communication servicer on said service communication provider", but as understood by the examiner the specification does not appear to describe this in such a way as to convey to one of ordinary skill in the art that the inventor was in possession of the claimed invention at the time the application was filed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasell et al.

As to claim 13, Vasell et al show a home information communication terminal unit connected to an indoor LAN; a service communication server of the service provider having management and transmission software; a supervisory server comprising servers operated by the network operator; wherein the recited apparati are capable of performing there recited tasks; charging the customers (as best understood). Vasell et al do not show stopping normal operation of the terminal unit when an emergency signal is sent to the terminal unit. However, to do so is notoriously old and well known in the art. For instance radios and alarm systems exist which upon a signal indicative of a tornado, cease normal operation and go into emergency operation. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Vasell et al by having the terminal unit go into an emergency mode upon receipt of an indication of emergency conditions from the server.

As to claim 14, Vasell et al show the terminal unit monitoring the operation of a living facility via the LAN. Vasell et al do not explicitly show automatically reporting back during abnormal conditions. However, it is notoriously old and well known to do so. For instance, Vasell et al discuss using the system to monitor alarms. It would have been obvious to one of ordinary skill in the art to report back in case of abnormality in order to alert the service provider so that they can respond.

As to claim 15, Vasell et al show temporary memory in the communication terminal unit in which related data on the service being provided and data related to the environment of the house is stored, and that the communications terminal unit sends data back to the supervisory server every predetermined period.

Alternatively, as to claim 15, Vasell et al show temporary memory in the communication terminal unit in which related data on the service being provided and data related to the environment of the house is stored. It does not show that the communications terminal unit sends data back to the supervisory server every predetermined period. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to send out data stored in the unit to the supervisory server periodically in order to provide system status, and to provide backup.

As to claim 16, Vasell et al show all elements except aggregating and recording costs at the supervisory server for services provided by the provider acting through the server. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus in order to record such charges since it is the supervisory server which controls and interacts with the end users terminal.

### ***Response to Arguments***

Applicant's arguments filed 11/1/2005 have been fully considered but they are not persuasive.



As to applicant's arguments regarding the interpretation of the claims contained intended use statements, the examiner has attempted to clarify the previous statements above.

As to the arguments regarding the new business model and that the supervisory server can provide the hardware and software for the service communication server, these elements do not appear to be claimed.

It is further noted that the Applicant has not traversed the "old and well known statements" made in the previous Office Action. Therefore, as required by MPEP 2144.03 (C ) the subject matter of those statements is held as admitted old by Applicant.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister  
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**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**